



# Community Development Department

**DATE:** April 5, 2022  
**FROM:** Ben Ehreth, AICP, Community Development Director  
**ITEM:** Easement Release in Lots 3-10, Block 1, Sloven Second Subdivision

## REQUEST

The City of Bismarck is requesting approval of the release of a 15-foot trackage and utility easement and a 10-foot utility easement release over Lots 3-10, Block 1, Sloven Second Subdivision.

Please place this item on the April 12, 2022 City Commission meeting agenda.

## BACKGROUND INFORMATION

The easement was granted with the plat of Sloven Second Addition, which was recorded July 30, 1984. A parallel trackage and utility easement located in Lot 2, Block 1 of Sloven Second Subdivision was recently removed through the replat of Municipal Fifth Addition. The easements now being requested for release were outside of the boundaries of this plat.

The City Engineer has affirmed that this easement is no longer needed to provide municipal services to the area. The applicant has obtained letters from Montana-Dakota Utilities, Capital Electric Cooperative, Lumen, and Midcontinent Communications consenting to the release of the easement.

## RECOMMENDED CITY COMMISSION ACTION

Based on the above findings, staff recommends approval of the attached resolution to release a trackage and utility easement over the North 15 feet of Lots 3-6, Block 1, Sloven Second Subdivision, less the west 15 feet of said easement in Lot 3, and a utility easement over the North 10 feet of Lots 6-10, Block 1, Sloven Second Subdivision.

## **STAFF CONTACT INFORMATION**

Ben Ehreth, AICP | Community Development Director, 355-1842 or [behreth@bismarcknd.gov](mailto:behreth@bismarcknd.gov)

Kim Lee, AICP | Planning Manager, 355-1846 or [klee@bismarcknd.gov](mailto:klee@bismarcknd.gov)

Daniel Nairn, AICP | Senior Planner, 355-1854 or [dnairn@bismarcknd.gov](mailto:dnairn@bismarcknd.gov)

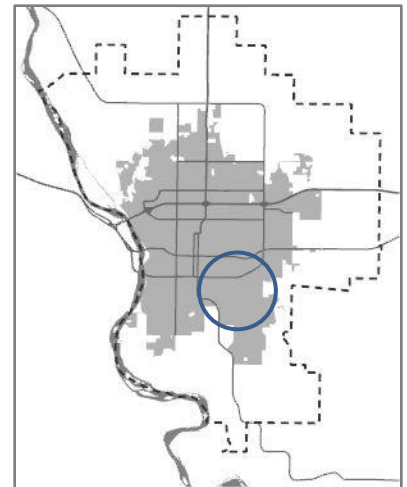
## STAFF REPORT

Application for: **Plat Modification –  
Easement Release**

Project ID: **PLMD2022-005**

### Project Summary

<i>Title:</i>	Easement Release in Lots 3-10, Block 1, Sloven Second Subdivision
<i>Status:</i>	Board of City Commissioners
<i>Owner(s):</i>	City of Bismarck
<i>Project Contact:</i>	Soren Sanderson, Engineering
<i>Location:</i>	In southeast Bismarck, south of East Main Avenue on the east side of South 26 <sup>th</sup> Street, just north of the Bismarck Public Works facility
<i>Project Size:</i>	15-feet by 599 feet and 10-feet by 1,099 feet
<i>Request:</i>	Release trackage and utility and utility easement to facilitate construction of Bismarck-Burleigh Public Health building



### Staff Analysis

The City of Bismarck is requesting approval of the release of a 15-foot trackage and utility easement and a 10-foot utility easement release over Lots 3-10, Block 1, Sloven Second Subdivision

The easement was granted with the plat of Sloven Second Addition, which was recorded July 30, 1984. A parallel trackage and utility easement located in Lot 2, Block 1 of Sloven Second Subdivision was recently removed through the replat of Municipal Fifth Addition. The easements now being requested for release were outside of the boundaries of this plat.

The City Engineer has affirmed that this easement is no longer needed to provide municipal services to the area. The applicant has obtained letters from Montana-Dakota Utilities, Capital Electric Cooperative, Lumen, and Midcontinent Communications consenting to the release of the easement.

The trackage and utility easement release does not include the West 15 feet to avoid confusion with a separate utility easement, which is not affected by this request.

The trackage and utility easement portion of the request requires a public hearing, and four notifications were mailed to owners of adjacent properties on April 1, 2022.

### Required Findings of Fact (relating to land use)

1. The easement, or part thereof, shown on the plat of record and proposed for release is no longer needed for the purpose for which it was dedicated;
2. The release of the easement is consistent with the general intent and purpose of the zoning ordinance; and

(continued)

3. The release of the easement is consistent with the master plan, other adopted plans, policies and accepted planning practice.

described as the North 10 feet of Lots 6-10, Block 1, Sloven Second Subdivision.

**Staff Recommendation**

Based on the above findings, staff recommends approval of the attached resolution to release a trackage and utility easement over the North 15 feet of Lots 3-6, Block 1, Sloven Second Subdivision, less the west 15 feet of said easement in Lot 3, and a utility easement

**Attachments**

1. Location Map
2. Plat Map
3. Resolution
4. Application/Petition
5. Letter(s) from Utilities

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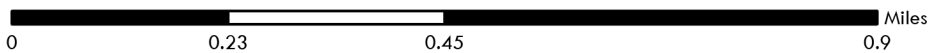
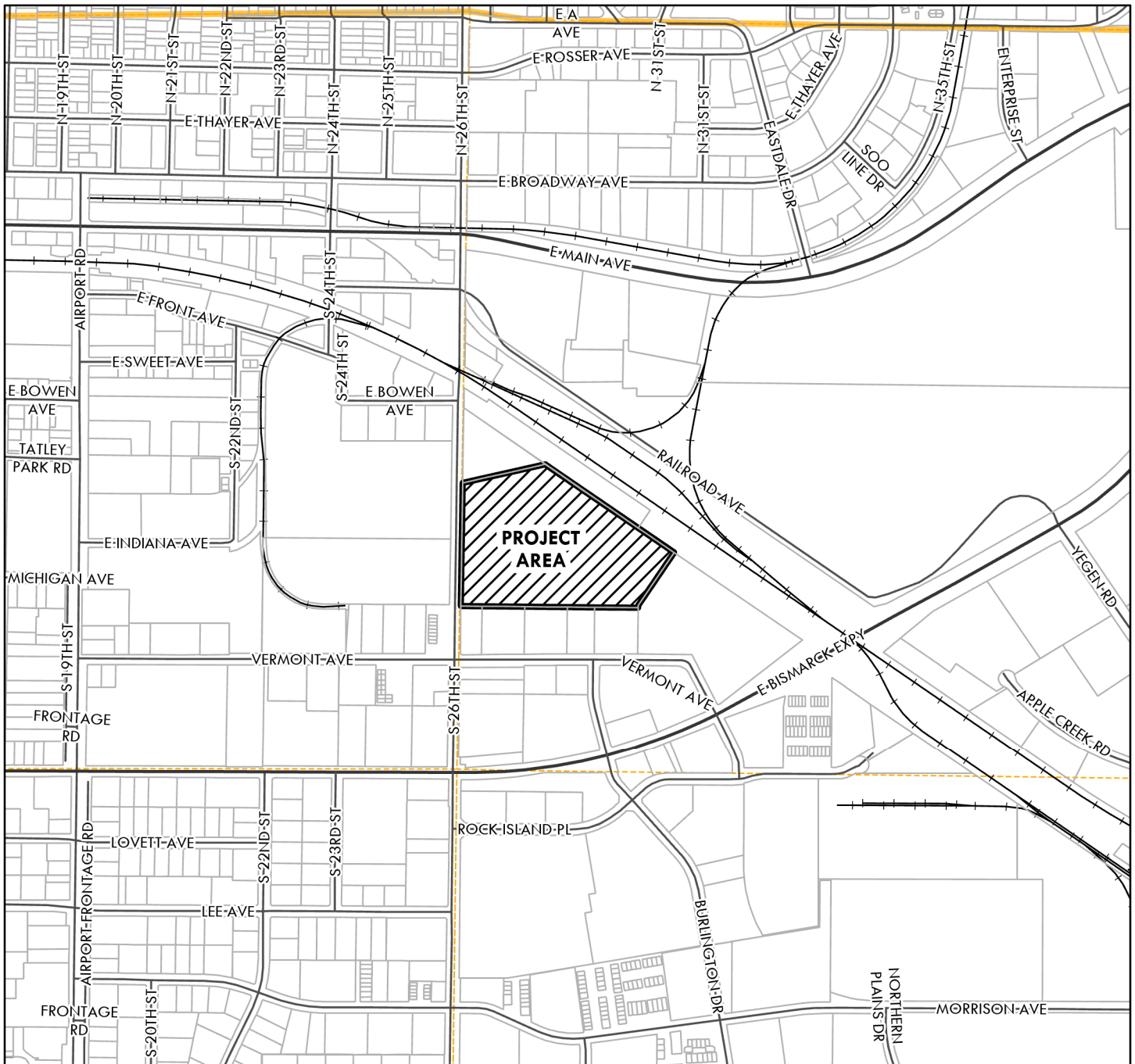
*Staff report prepared by:* Daniel Nairn, AICP, Senior Planner  
701-355-1854 | [dnairn@bismarcknd.gov](mailto:dnairn@bismarcknd.gov)



## Location Map

PLMD2022-005

SLOVEN 2ND SUBDIVISION, PT L3-11, B1 & L1-6, B2



City Limits

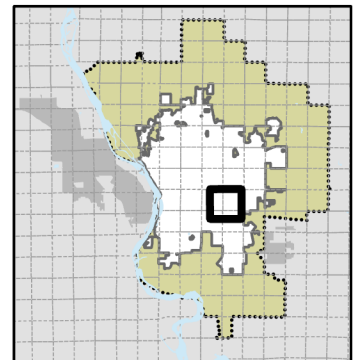


Bismarck ETA Jurisdiction

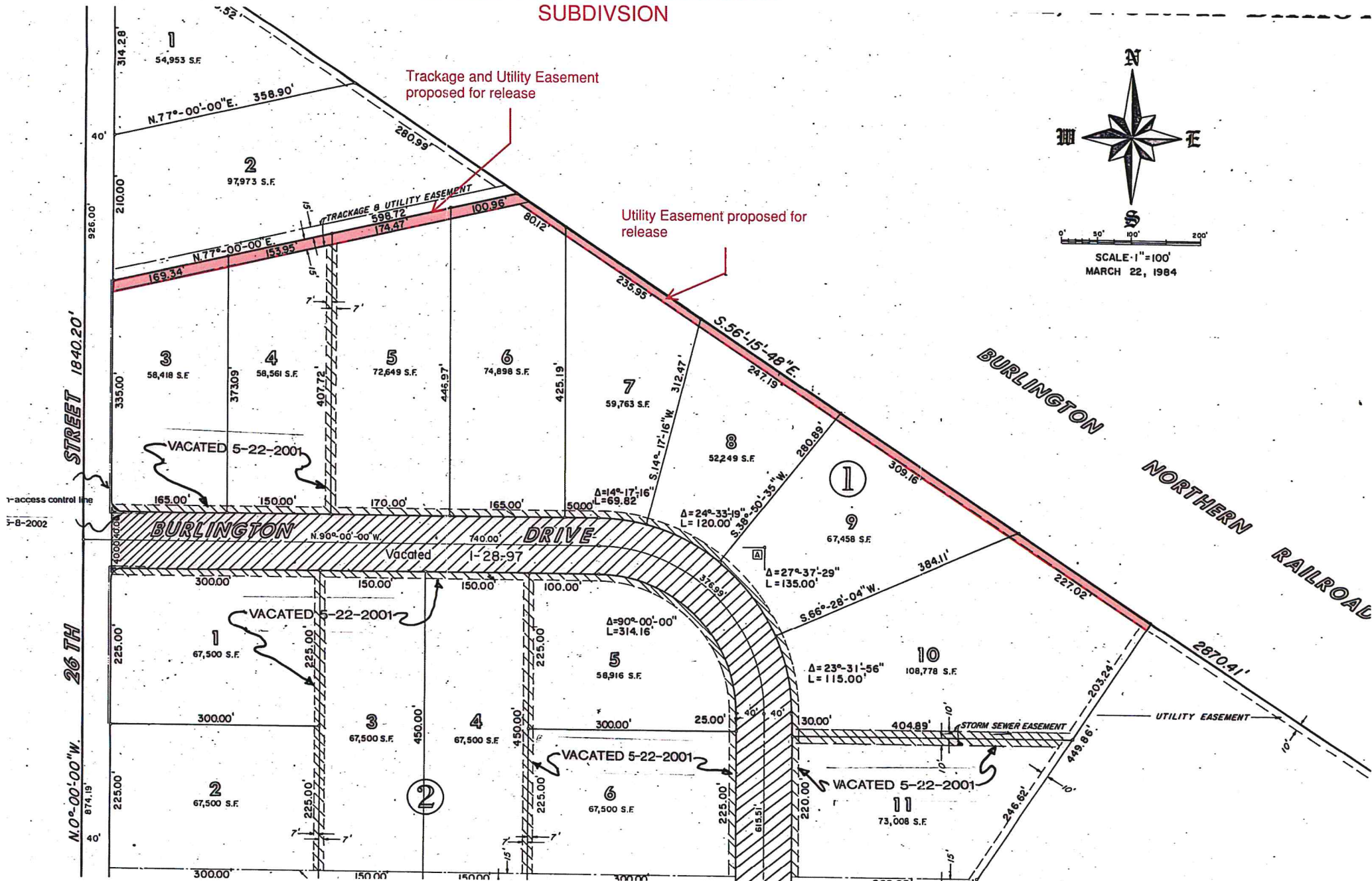
City of Bismarck  
Community Development Department  
Planning Division  
March 22, 2022 (HLB)

*Section, township, and  
range indicated in orange*

*This map is for representational use only and does not represent a survey.  
No liability is assumed as to the accuracy of the data delineated hereon.*



EXCERPT FROM SLOVEN SECOND  
SUBDIVISION



## **RESOLUTION**

### **RELEASE OF TRACKAGE AND UTILITY AND UTILITY EASEMENTS IN SLOVEN SECOND SUBDIVISION**

**WHEREAS**, the owners of property described as Lots 3 – 11, Block 1, and Lots 1 – 6, Block 2, Sloven Second Subdivision and all of vacated Burlington Drive, adjoining and contiguous to a platted trackage and utility and utility easements, have heretofore joined in petition requesting that said easements be released, verified by oath of at least one petitioner and accompanied by a plat of said easements to be released, having set forth the facts and reason for said release; and

**WHEREAS**, said platted trackage and utility and utility easements were shown on the plat of Sloven Second Subdivision, which was recorded on July 30, 1984; and

**WHEREAS**, the City Engineer has determined that the trackage and utility and utility easements proposed for release is no longer necessary to provide trackage and utility services to the area.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of City Commissioners of the City of Bismarck, North Dakota, that the petition to release the trackage and utility easement described as:

The North 15 feet, less the west 15 feet, of Lots 3-6, Block 1, Sloven Second Subdivision in the City of Bismarck, Burleigh County, North Dakota

is in all things allowed and granted.

**BE IT FURTHER RESOLVED** by the Board of City Commissioners of the City of Bismarck, North Dakota, that the petition to release the utility easement described as:

The North 10 feet of Lots 6-10, Block 1, Sloven Second Subdivision in the City of Bismarck, Burleigh County, North Dakota

is in all things allowed and granted.

**BE IT FURTHER RESOLVED** that the City Administrator be and is hereby authorized to file this resolution for record in the office of the County Recorder, Burleigh County, North Dakota.

Adopted this 12<sup>th</sup> day of April, 2022.

## **CERTIFICATE**

I, Jason Tomanek, do hereby certify that I am the duly appointed, qualified Assistant City Administrator of the City of Bismarck, North Dakota, and that the foregoing is a full, true and correct copy of a resolution adopted at a legally convened meeting of the Board of City Commissioners held on April 12, 2022.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the City of Bismarck, North Dakota, this 12<sup>th</sup> day of April, 2022.

(SEAL)

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Jason Tomanek  
Assistant City Administrator  
Bismarck, North Dakota



City of Bismarck  
Community Development Department  
Planning Division  
Phone: 701-355-1840 • FAX: 701-222-6450 • TDD: 711  
PO Box 5503 • Bismarck, ND 58506-5503  
[planning@bismarcknd.gov](mailto:planning@bismarcknd.gov)

Last Revised: 1/1/2022

## UNIFIED DEVELOPMENT APPLICATION

**NOTE: APPLICATIONS ARE NOT COMPLETE UNTIL ALL REQUIRED SUBMITTALS HAVE BEEN RECEIVED**

**Application submitted for (check all that apply):**

- |                                                                 |                                           |                                                            |                                        |
|-----------------------------------------------------------------|-------------------------------------------|------------------------------------------------------------|----------------------------------------|
| <input type="checkbox"/> Preliminary Major Plat                 | <input type="checkbox"/> Final Major Plat | <input type="checkbox"/> Minor Plat                        | <input type="checkbox"/> Plat Vacation |
| <input type="checkbox"/> Annexation                             | <input type="checkbox"/> Zoning Change    | <input type="checkbox"/> PUD Zoning Change / PUD Amendment |                                        |
| <input type="checkbox"/> Special Use Permit                     | <input type="checkbox"/> Variance         | <input type="checkbox"/> Rural Lot Split (RR & RR5)        |                                        |
| <input type="checkbox"/> Fringe Area Road Master Plan Amendment |                                           | <input type="checkbox"/> Land Use Plan Amendment           |                                        |
- Lot Modification
- ☐ Lot Line Adjustment
- ☐ Lot Split
- ☐ Lot Combination
- Plat Modification
- ☐ Street/Alley Vacation
- ☒ Easement Release
- ☐ Non-Access Line Release

### PROPERTY INFORMATION

Project Name:	Easement Releases in Sloven 2nd Addition		
Legal description: (Lot, Block, Addition/Subdivision)	Lots 3-10, Block 1, Sloven Second Subdivision		
Street address of property:	601 South 26th Street		
Existing Zoning	MA	Proposed Zoning:	MA
Acreage:	25.9 (whole parcel)	Number of Lots:	8
Description of development proposal, including reason(s) for the request: (if additional room is needed, please attach a separate sheet)	Release the "Trackage and Utility Easement" in the North 15 feet of Lots 3-6, Block 1, less the West 15 feet of said easement within Lot 3, and the "Utility Easement" in the North 10 feet of Lots 6-10, Block 1, Sloven Second Subdivision		

### APPLICANT/DEVELOPER

Name:	City of Bismarck
Mailing Address:	221 North 5th Street

### PROPERTY OWNER (IF DIFFERENT THAN APPLICANT/DEVELOPER)

Name:	
Mailing Address:	

### CONTACT PERSON/CONSULTANT (IF DIFFERENT THAN APPLICANT/DEVELOPER)

Name:	Soren Sanderson
Mailing Address:	221 North 5th Street

(Applicant's Signature)

Tannelle Combs,  
(Printed Name)  
City Attorney

3/16/2022  
(Date)

(Printed Name)

(Additional Owner's Signature, if applicable)

(Date)

(Additional Owner's Signature, if applicable)

(Date)

The oath of at least one petitioner is required for **plat modification requests only**  
(vacation of street/alley, release of non-access line, or release of easement)

STATE OF NORTH DAKOTA )

: SS

COUNTY OF BURLEIGH )

On this 16<sup>th</sup> day of March, 2022, before me, a notary public in and for said county and state, appeared

Janette Combs, known to be personally to be the same person described in and whom executed the above instrument, and severally acknowledged that he/she executed the same.

STEPHANIE PRETZER

**Notary Public**

State of North Dakota

**My Commission Expires Jan 21, 2023**

Stephanie Protzman  
Notary Public

Notary Public

Burleigh County, State of North Dakota

The Planning and Zoning Commission regularly meets on the fourth Wednesday of each month. All development applications – except for variances, lot modifications and plat modifications – are due at **12:00 noon on the Friday that is 33 calendar days prior** to the meeting.

The Board of Adjustment regularly meets on the first Thursday of each month. All development applications for variances are due at **5:00 p.m. on the Monday that is 24 calendar days prior** to the meeting.

The Board of City Commissioners regularly meets on the second and fourth Tuesdays of each month. All development applications for plat modifications (street/alley vacation, non-access line release, easement release) are due at **5:00 p.m. on the Tuesday that is 14 calendar days prior** to the meeting.

Development applications for lot modifications are processed administratively and may be submitted at any time.



**MONTANA-DAKOTA**

**UTILITIES CO.**

*A Subsidiary of MDU Resources Group, Inc.*

400 North Fourth Street

Bismarck, ND 58501

(701) 222-7900

RECEIVED

FEB 23 2022

BY \_\_\_\_\_

February 14, 2022

Gabe Schell  
City of Bismarck  
221 North 5<sup>th</sup> Street  
Bismarck, ND 58501

**RE: Sloven Second Subdivision Easement Vacation**

MDU has no objection to the request to vacate the platted easement in the north 15 feet of Lots 3, 4, 5 & 6, Block 1 Sloven Second Subdivision, and the northern 10 feet of the platted easement on Lots 6, 7, 8, 9 & 10, Block 1, Sloven Second Subdivision to the City of Bismarck, ND.

If we can be of further assistance please do not hesitate to contact me at the address above or at phone #701-222-7846 or email [Robert.frank@mdu.com](mailto:Robert.frank@mdu.com).

Thank you,

Robert Frank  
Director of Electric Transmission Engineering

\_\_\_\_\_  
Montana-Dakota Utilities Co.



RECEIVED  
FEB 10 2022  
BY \_\_\_\_\_

January 28, 2022

LUMEN  
Connie Kassian  
1101 16<sup>th</sup> Street NE  
Mandan, ND 58554

Re: Sloven Second Subdivision

Dear Ms. Kassian:

The City of Bismarck wishes to vacate the North 15-feet of a trackage and utility easement of Lots 3, 4, 5, and 6, Block 1, Sloven Second Subdivision. Additionally, the City of Bismarck wishes to vacate the Northern 10-feet of a utility easement on Lots 6, 7, 8, 9, and 10, Block 1, Sloven Second Subdivision and adjacent to and parallel with the North Line of said Lots.

If you agree with this easement vacation, please sign your consent below and return to the office of City of Bismarck, Engineering Department within the next 10 business days.

Sincerely,

  
Gabe Schell, PE  
City Engineer

GS/ds

I, CONNIE M KASSIAN a representative of LUMEN, Inc., hereby consent to the proposed vacation of the above described utility easement.

  
LUMEN





RECEIVED  
FEB 10 2022  
BY \_\_\_\_\_

January 28, 2022

Capital Electric Cooperative, Inc.  
Mr. Greg Owen  
PO Box 730  
Bismarck, ND 58502-0730

Re: Sloven Second Subdivision

Dear Mr. Owen:


The City of Bismarck wishes to vacate the North 15-feet of a trackage and utility easement of Lots 3, 4, 5, and 6, Block 1, Sloven Second Subdivision. Additionally, the City of Bismarck wishes to vacate the Northern 10-feet of a utility easement on Lots 6, 7, 8, 9, and 10, Block 1, Sloven Second Subdivision and adjacent to and parallel with the North Line of said Lots.

If you agree with this easement vacation, please sign your consent below and return to the office of City of Bismarck, Engineering Department within the next 10 business days.

Sincerely,

Gabe Schell, PE  
City Engineer

GS/ds

I, , a representative of Capital Electric Cooperative, Inc., hereby consent to the proposed vacation of the above described utility easement.

  
Capital Electric Cooperative, Inc.





RECEIVED

FEB 14 2022

BY \_\_\_\_\_

January 28, 2022

Midco  
Derek Weigel  
719 Memorial Hwy  
Bismarck, ND 58504-5330


Re: Sloven Second Subdivision

Dear Mr. Weigel:

The City of Bismarck wishes to vacate the North 15-feet of a trackage and utility easement of Lots 3, 4, 5, and 6, Block 1, Sloven Second Subdivision. Additionally, the City of Bismarck wishes to vacate the Northern 10-feet of a utility easement on Lots 6, 7, 8, 9, and 10, Block 1, Sloven Second Subdivision and adjacent to and parallel with the North Line of said Lots.

If you agree with this easement vacation, please sign your consent below and return to the office of City of Bismarck, Engineering Department within the next 10 business days.

Sincerely,

  
Gabe Schell, PE  
City Engineer

GS/ds

I, Derek Weigel, a representative of Midco, hereby consent to the proposed vacation of the above described utility easement.

  
\_\_\_\_\_  
Midco